

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

Criminal Misc. Application No. 668 of 2006

Mohd. Yar Khan
S/o Ali Yar Khan
R/o Village Ali Nagar
P.S. Kiccha
District Udham Singh Nagar Petitioner

Vs

1. State of Uttaranchal
2. Sri Rajveer Singh, Principal
S/o Dharamveer Singh
R/o Vankuiya, P.S. Kiccha
District Udham Singh Nagar
At present Primary School, Dakiya No. 1
Kashipur R/o 288 /56 Subhash Nagar
Kashipur Udham Singh Nagar Respondents

Sri M.K. Goyal, learned counsel for the petitioner
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

By way of this petition under Section 482 Cr.P.C. by the petitioner has sought the relief for quashing the summoning order dated 17.06.2006 passed by the trial court under the provision of 319 Cr.P.C. to face the trial in Criminal Case No. 310 of 2006 State Vs Ramanand under Sections 323, 332, 427, 353, 506 I.P.C. pending in the court of Judicial Magistrate, Rudrapur.

2. Brief facts of the case are that the First Information Report was lodged by the respondent No. 2- Rajveer Singh against certain assailants including the petitioner alleging therein that the petitioner- Mohd. Yar Khan assaulted him with kicks and fists. The respondent No. 2 is a Principal of a college.

3. However, the police submitted the chargesheet against one person- Ramanand and the petitioner was anyhow exonerate by police and no chargesheet was submitted against him. During the trial when the statement of respondent No. 2 was recorded before the court, he again deposed that it was the petitioner- Mohd. Yar Khan who assaulted him with kicks and fists. It has also been deposed by the respondent No. 2 before the trial court that the petitioner along with other assailants torn the records kept in the office of respondent No. 2- Principal, and threatened him with dire consequences. The trial court after examining the deposition of respondent No. 2 came to the conclusion that there was a prima facie case to proceed against the petitioner, hence summoned him under Section 319 Cr.P.C.

4. Feeling aggrieved by the aforesaid impugned order dated 17.06.2006 summoning the petitioner, this petition under Section 482 Cr.P.C. has been filed by him.

5. Heard Sri M.K. Goyal, learned counsel for the petitioner, learned A.G.A. for the State and perusing the record.

6. Having considered the arguments advanced by the learned counsel for the parties and after perusal the material available on record, I do not find any abuse of process of the court in this case.

7. The specific allegation has been made against the petitioner and respondent No. 2 has attributed a specific role of assaulting him by the petitioner with kicks and fists. The respondent No. 2 has also deposed in his evidence before the court specifically that it was the petitioner who along with

other assailants torn the records kept in his office and threatened him, with dire consequences.

8. Since there is a specific allegation made in the deposition of the respondent No. 2 before the trial court, therefore, I do not find any ground to embark upon an inquiry with regard to the credibility of the evidence at this stage. Any judgment rendered by me would amount to premature judgment at this stage where the evidence is still incomplete and hazy.

9. Therefore, the petition lacks merit and is liable to be dismissed.

10. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

17-08-2006
ASWAL